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JAN 21 2005

PAGES: 3 including cover

DATE: January 21, 2005

FROM: Steven J. Elleman
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TO: **Monica Smith Carter**
Primary Examiner
United States Patent and Trademark Office
Art Unit: 3722

PHONE: 571-272-4475
FAX: 703-872-9306

PLEASE SEE ATTACHED.

Re: Application of

Applicant : Richied
Serial No. : 10/696,499
Filed : October 29, 2003
Title : DIVIDER WITH MOVABLE TAB
Docket : 100041-41185
Examiner : Monica S. Carter
Art Unit : 3722

**REQUEST TO CONSIDER CORRESPONDENCE NEVER RECEIVED AS TIMELY
FILED IN ACCORDANCE WITH CERTIFICATE OF MAILING (37 C.F.R. § 1.8(b))**

Per Andrea L. Wellington, the examiner's supervisor, this facsimile is being sent to Examiner Monica S. Carter at facsimile 703-872-9306.

Problems with transmission? Call Marriet Burdick at 937-331-6044.

mlb 00000.100041.41185

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, Post Office Box 1450, Alexandria, VA 22313-1450, on:

1/21/05

Date of Deposit

SLR
Attorney41,733

Reg. No.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

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JAN 21 2005

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

**REQUEST TO CONSIDER CORRESPONDENCE NEVER RECEIVED AS TIMELY
FILED IN ACCORDANCE WITH CERTIFICATE OF MAILING (37 C.F.R. § 1.8(b))**

This is a request to consider correspondence filed in the above-identified application as being timely filed in accordance with the procedures of 37 C.F.R. § 1.8(a).

An Amendment filed in response to an Office action dated July 23, 2004 was mailed on October 14, 2004. A copy of such Amendment is enclosed. As can be seen that Amendment includes a Certificate of Mailing certifying that the correspondence was being deposited with the United States Postal service on October 14, 2004. Also submitted herewith is a copy of a letter, dated October 14, 2004, from the undersigned to the Applicant reporting the filing of the subject

Serial No. 10/696,499
Attorney Docket No. 100041-41185
Petition

paper on October 14, 2004. This letter is provided as further evidence that the paper of October 14, 2004 was properly mailed on that day.

On January 14, 2005, the undersigned discovered that the United States Patent and Trademark Office has not received the Amendment filed on October 14, 2004. Accordingly, this Request is being promptly submitted upon discovery that the Office never received that paper.

In view of the foregoing, it is hereby requested that the correspondence filed in the above-identified application be considered as being timely filed and considered by the Examiner.

Respectfully submitted,



Steven J. Elleman
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